ing said servant during the time of his agreement with complainant, in any service connected with work similar to that which he performed for the latter; but unless the servant expressly agreed to perform unique and special services, and stipulated not to work for another, he will not be enjoined from entering another's service. *Taylor Iron and Steel Company* v. *Nichols et al.* (1905), — N. J. Eq. —, 61 Atl. Rep. 946.

Where trade secrets are likely to be divulged there are three ways in which the injured party may protect himself by injunction; first, by restraining the employee from making known, and any future employer from using, the secrets in question: *Peabody* v. *Norfolk,* 98 Mass. 452, 96 Am. Dec. 664; *Eastman Co.* v. *Reichenbach,* 20 N. Y. Supp. 110; *Fralich* v. *Despar,* 165 Pa. 24, 30 Atl. 521; *O. & W. Thum Co.* v. *Floczynski,* 114 Mich. 149, 38 L. R. A. 200. Contra *Deming* v. *Chapman,* 11 How. Prac. 382; second, the prospective employer may be enjoined from taking the employee into service; this method, though employed in the principal case, does not appear to have been often made use of by the courts; third, if the employee's contract provides for the exercise of peculiar skill, and in it he expressly stipulates not to work for another, he may be restrained from entering the employ of such other. *Harrison* v. *Glucose Sugar Refining Co.,* 116 Fed. 304, 58 L. R. A. 915; *Duff* v. *Russell,* 14 N. Y. Supp. 134. To the contrary are *Sanquirico* v. *Benedetti,* 1 Barb. 315; *Delavan* v. *Marcarte,* 1 Ohio Dec. 226. An express negative stipulation, although insisted upon here, has not always been held necessary. *Hoyt* v. *Fuller,* 19 N. Y. Supp. 962; *Montague* v. *Flockton,* L. R. 16 Eq. 189; *Webster* v. *Dillon,* 3 Jur. N. S. 432; see also HIGH ON INJUNCTIONS, II, 902. The principal case seems very strict, also, in requiring that it must appear affirmatively upon the face of the contract that the services to be performed require peculiar skill. This point was not so strongly insisted upon in *Harrison* v. *Glucose Sugar Refining Co.,* supra.

MARRIAGE—SUIT TO ANNUL—ALIMONY PENDENTE LITE.—Where a wife sues to have a marriage declared null on the ground that the husband was insane when the marriage was contracted, *Held,* that the court has no power to award her counsel fees and alimony pendente lite. *Jones* v. *Brinsmade* (1905), — N. Y. —, 76 N. E. Rep. 22.

There has been a great deal of disagreement in the courts of New York in the decisions on this question. The court held that conceding the marriage of a lunatic to be voidable and not void and that it becomes void only upon a decree annulling the marriage, a wife cannot insist that she is entitled to all the rights of a wife under a valid marriage until the time the decree is rendered. The decision was placed upon the ground that since the decree of nullity dates back to the time of the marriage, it would be inconsistent for a wife to be allowed counsel fees and alimony to establish the invalidity of the marriage. The marriage of a lunatic is by the general rule declared to be void ab initio. *Winslow* v. *Tracy,* 97 Me. 130; BISHOP ON MAR. AND DIV., § 136. There is greater reason for holding that there can be no alimony in the case of a void marriage than in the case of a voidable marriage, on the ground that counsel fees and alomony are necessaries which a husband is

bound to provide as long as the marriage is not declared void. Many of the earlier New York cases involving this question can be reconciled because of the distinction between a void and voidable marriage, that the first is void ab initio and no rights can be acquired under it, while the second is valid until annulled. *Gore* v. *Gore,* 103 App. Div. 74, 92 N. Y. Supp. 634; *Griffin* v. *Griffin,* 47 N. Y. 134; *Higgins* v. *Sharp,* 164 N. Y. 4, 58 N. E. Rep. 9. The principal case seems to go farther and declare that there can be no alimony in either case. Many courts hold there should be an allowance of suit money even in the case of a void marriage. *Strode* v. *Strode,* 3 Bush (Ky.) 227, 96 Am. Dec. 211; *Lea* v. *Lea,* 104 N. C. 603, 10 S. E. Rep. 488, 17 Am. St. Rep. 692.

MASTER AND SERVANT—FELLOW SERVANT OR VICE PRINCIPAL.—Plaintiff was employed in levelling dirt, etc., in front of a steam shovel. While he was so engaged the operator moved the shovel forward and plaintiff was injured. The operator, beside operating the machine, employed and directed the men who worked with him in the gang, made out their time checks, superintended the work and discharged the men at times. *Held,* that the operator was not a vice principal but was a fellow servant and the defendant company was not liable. *Mollhoff* v. *Chicago, R. I. & P. R. Co.* (1906), — Okl. —, 82 Pac. Rep. 733.

The principal case follows *Reummeli* v. *Cahill,* 14 Okl. 422, and the rule laid down by the United States Supreme Court and defines a vice principal to be one placed in the absolute control and management of an entire business, or of a distinct and separate department. In applying this rule the court says that it is a matter of common knowledge that the defendant corporation operates a great railway system and to infer that the repair department consists of one steam shovel and half a dozen men placed under the exclusive control of and management of Butler (the operator) is to infer the ridiculous. And as of course the plaintiff was unable to prove such control the operator was held to be a fellow servant. The case would seem to sustain the opinion of the court of appeals that the famous case of *Chicago, M. & St. Paul R. R.* v. *Ross,* 112 U. S. 77, 28 L. Ed. 787, 5 Sup. Ct. Rep. 184, had been overruled. 2 LABATT MASTER & SERVANT, p. 1525, and cases cited. In that case a conductor was held to be a vice principal as to the members of his train crew. However, the case of *New England R. R. Co.* v. *Conroy Admr.,* 175 U. S. 323, 44 L. Ed. 181, 20 Sup. Ct. Rep. 85, holds that a freight conductor is not ipso facto a vice principal. Later the United States Supreme Court, in *B. & O. R. R.* v. *Baugh,* 149 U. S. 368, 37 L. Ed. 772, 13 Sup. Ct. Rep. 914, takes the position that the *Ross* case is not entirely overruled and leaves intact the doctrine that a conductor may possibly be shown to be the head of a department, and hence a vice principal. Of course, if a conductor may have such authority as to be practically in charge of the department it would seem that it would not be necessary to prove that the operator in the principal case was in charge of the entire repair department to make him a vice principal as to the plaintiff. But perhaps as suggested by Mr. Kales in 2 MICHIGAN LAW REVIEW 79, the United States courts have abandoned the idea that